

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Ronald Brain Gray

(b) County of Residence of First Listed Plaintiff Lancaster County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Gary Schafkopf, 11 Bala Ave Bala Cynwyd PA 19004; 610-664-5200
Matthew Weisberg, 7 S. Morton Ave Morton PA 19070; 610-690-0801
Brian Mildenberg, 1735 Market Street, Suite 3750 19103; 215-545-4870

DEFENDANTS

City of Lancaster d/b/a Police Department; Officer Jake Bingham and Officer Timothy Sinnot

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC Section 1331; 42 USC Section 1983 et seq

Brief description of cause:

To Remedy Excessive Force/Denial of Civil Rights

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

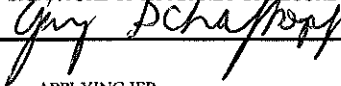
(See instructions):

JUDGE

DOCKET NUMBER

DATE 10-19-18
FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD



RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Ronald Brian Gray

CIVIL ACTION

v.

City of Lancaster d/b/a Police
Department et al

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

10-19-18

Gary Schafkopf, Esq

Plaintiff

Date

Attorney-at-law

Attorney for

610-664-5200 Ext 104

888-283-1334

gary@schaflaw.com

Telephone

FAX Number

E-Mail Address

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 21 South Mary Street, Lancaster PA 17603

Address of Defendant: 39 W. Chestnut Street Lancaster PA 17603

Place of Accident, Incident or Transaction: South Mary Street Lancaster PA 17603

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when *Yes* is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/19/2018

Gary Schafkopf
Attorney-at-Law / Pro Se Plaintiff

83362

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Gary Schafkopf, counsel of record or pro se plaintiff, do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- ☒ Relief other than monetary damages is sought.

DATE: 10-19-18 Gary Schafkopf 83362
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

RONALD BRIAN GRAY

21 South Mary Street,
Lancaster, PA 17603

Plaintiff

v.

**CITY OF LANCASTER d/b/a
POLICE DEPARTMENT**

39 W. Chestnut Street
Lancaster, PA 17603

and

**OFFICER JAKE BINGHAM Individually,
and in his official capacity as an Officer
for the Lancaster Police Department**

39 W. Chestnut Street
Lancaster, PA 17603

and

**OFFICER TIMOTHY SINNOT
Individually, and in his official capacity as
an Officer for the Lancaster Police
Department**

39 W. Chestnut Street
Lancaster, PA 17603

Defendants.

COMPLAINT

To Remedy Excessive Force/Denial of
Civil Rights Pursuant to 42 USC Sec.
1983 et sq

JURY OF TWELVE (12) JURORS
DEMANDED

NATURE OF ACTION

1. Plaintiff, Ronald Brian Gray, brings this lawsuit against Defendant, the Lancaster Police Department, to remedy violation of his civil rights and the use of excessive force on the part of the Lancaster Police Department. The Lancaster Police use of force was objectively unreasonable in light of the facts and circumstances confronting them when Plaintiff had not committed any infraction or otherwise to legally justify the force used by Defendants in violation of federal law.

PARTIES

2. Plaintiff, Ronald Brian Gray, is an adult individual, residing at 21 South Mary Street, Lancaster, Pennsylvania 17603. Plaintiff is African American.
3. Defendant, the City of Lancaster, doing business as the Lancaster Police Department (“LPD”) is located at 39 W. Chestnut Street, Lancaster, Pennsylvania 17603. Defendant is a municipality, duly organized and existing under the laws of the Commonwealth of Pennsylvania.
4. Officer Sinnott (“Sinnott”) who, at all times material herein, was employed as an Officer for the LPD, is sued both individually and in his official capacity.
5. Officer Bingham (“Bingham”) who, at all times material herein, was employed as an Officer for the LPD, is sued both individually

JURISDICTION AND VENUE

6. The above paragraphs are incorporated herein by reference.
7. Jurisdiction in this Honorable Court is based on federal question 28 U.S.C. §1331; supplemental jurisdiction over state law claims is granted by 28 U.S.C. §1367.

8. Venue is proper in the Eastern District of Pennsylvania, as the facts and transactions involved in the discrimination complained of herein occurred in large part in the judicial district of Lancaster County, Pennsylvania.

STATEMENT OF FACTS

9. The above paragraphs are incorporated herein by reference.
10. The LPD, in a number of unlawful and discriminatory acts used excessive force by grabbing the Plaintiff by the neck and dragging him from his truck, slamming him on the ground, repeatedly slamming his head on the ground, stepping on his legs and dragging him through the street.
11. On March 22, 2018, Plaintiff was across the street from his house working on the radio in his truck. The door was ajar and Plaintiffs legs were hanging out of the truck door.
12. At no time was Plaintiff operating the truck.
13. Upon information and belief, after a few minutes of the Plaintiff working on the radio, police appeared on the scene.
14. Police Officers Bingham and Sinnott parked their vehicle approximately 50 yards away blocking the street and approached Plaintiff.
15. Upon information and belief, the LPD officers on the scene were white.
16. The officers asked Plaintiff, who is black, to identify himself.
17. The Plaintiff refused and asked the Officers why they were harassing him.
18. The Plaintiff uses marijuana to help with the pain from his disability. He does not have a medical marijuana card.
19. At some point during this interaction, the Officers noticed the remnants of a marijuana cigarette in Plaintiff's ashtray.

20. The Officers instructed the Plaintiff to put his hands on the wheel and the Plaintiff complied without resistance.
21. The Officers then instructed the Plaintiff to put his hands on his head.
22. The Plaintiff pointed to his disability placard and informed the Officers that due to having 3 discs removed from his spine and 2 knee replacements that he could not put his hands over his head.
23. The officer again instructed Plaintiff to put his hands on his head.
24. Plaintiff responded that he was not resisting but that he was unable to move his hands above his shoulders.
25. At which point, Officer Sinnot grabbed the Plaintiff by the neck and physically removed him from the car slamming him to the ground.
26. At some point during the altercation, the Officers asked Plaintiff if he had any other marijuana in his possession.
27. Not wanting the cause any further trouble, Plaintiff immediately told the Officers he had marijuana in his groin area.
28. After retrieving the marijuana from Plaintiff, Officer Sinnott grabbed Plaintiff by the neck and slammed his head into the ground approximately three times.
29. Officer Bingham then stood with both feet on Plaintiff's legs.
30. While in intense pain, the Officers handcuffed Plaintiff's hands behind his back.
31. Plaintiff repeatedly told the Officers that he was not resisting and did not want to cause any trouble.
32. After being slammed on the ground, the Plaintiff repeatedly pled with the Officers to call an ambulance because he was injured.

33. The Officers refused to provide the Plaintiff with medical attention.
34. Officer Bingham replied that Plaintiff was getting into the police vehicle “one way or another.”
35. The Officers then began to drag Plaintiff through the street.
36. Upon information and belief, upwards to 30 members of Plaintiff’s community witnessed the incident.
37. Upon information and belief, some witnesses implored the Officers to show restraint because they knew Plaintiff was disabled.
38. A partial video of the incident is available.
39. After about 15 minutes, an ambulance arrived, and the Plaintiff was taken to the hospital in handcuffs.
40. The Officers followed the ambulance to the hospital where they removed the handcuffs from the Plaintiff and left the hospital.
41. Plaintiff suffered a hairline fracture in one of his knee replacements, neck and back contusions and has a scar on his head from the incident.
42. Approximately two hours later, Plaintiff was released from the hospital and never formally arrested.
43. Forty-five days after Plaintiff was released from the hospital, he received a citation for simple possession of 23 grams of marijuana and paraphernalia and fined \$373 dollars.
44. Upon being released from the hospital, the Plaintiff spoke with Mayor Sorace to report the incident and the Mayor took no action and negligently ignored Plaintiff’s complaint.
45. There was absolutely no reason for the Officers to use such excessive force.
46. The treatment of Plaintiff by the LPD was shocking.

47. Plaintiff has also experienced crippling anxiety since the incident
48. Plaintiff is scared to leave the house as a result of the actions of the LPD and its Officers.
49. The actions of Officer Bingham, Officer Sinnott and the LPD were shockingly violent and the use of excessive force was done without any justification.
50. Upon information and belief, Plaintiff was racially profiled based upon his African American race.
51. Upon information and belief from publicly available sources, there is a clear racial disparity in Lancaster and the LPD has a history and pattern of intentionally discriminating against African Americans and other minorities. For example, in Lancaster County:
- a. Lancaster County is approximately 16 percent African American.
 - b. African Americans are arrested over four times the rate of white youth.
 - c. Latino youth are arrested at twice the rate of white youth.
52. The actions of Defendants have caused Plaintiff to suffer substantial shame, embarrassment, mental and physical suffering.
53. The foregoing actions of defendants were negligent and/or reckless and/or intentional.

COUNT I.
EXCESSIVE FORCE/ASSAULT AND BATTERY

54. The above paragraphs are incorporated herein by reference.
55. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.
56. At the time of Defendants' conduct, Plaintiff had not committed any infraction otherwise to legally justify the force used by Defendants.

57. Defendants' actions stated above, inter alia, were committed under color of state law and were violations of Plaintiff's clearly established and well settled Constitutional and other legal rights.

58. Defendants placed Plaintiff in fear of physical harm and contact and then physically harmed and contacted Plaintiff without justification. Plaintiff suffered excessive force by their wrongful conduct all in violation of the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution, actionable through 42 U.S.C. §1983, et seq., and at Common Law.

COUNT II.
EIGHTH AMENDMENT VIOLATION-FAILURE TO PROVIDE MEDICAL CARE
AND TREATMENT

59. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

60. Defendants showed deliberate indifference to Plaintiff's serious medical needs and wanton infliction of pain.

61. Defendants' actions stated above, inter alia, were committed under color of state law and were violations of Plaintiff's clearly establish and well settled Constitutional and other legal rights.

62. Defendants caused Plaintiff to suffer cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution, actionable through 42 U.S.C. §1983, et seq.

COUNT III
42U.S.C. Sec. 1983
DISCRIMINATION BASED UPON RACE

63. The above paragraphs are incorporated herein by reference

64. By committing the foregoing acts of discrimination against Plaintiff, Defendant has violated Plaintiff's clearly established and well settled Constitutional and other legal rights.
65. Said violations were done with malice and/or reckless indifference and warrant the imposition of punitive damages.
66. The aforesaid conduct of Defendants' was intentional and undertaken in reckless disregard for the federally protected civil rights of Plaintiff.
67. As a result of the said violation of 42 U.S.C. § 1983, Plaintiff has suffered discrimination, humiliation, embarrassment, and other harms, and is entitled to entry of judgment in his favor, and against Defendants, together with an award of declaratory and injunctive relief, damages, and ancillary relief as provided by 42 U.S.C. § 1988.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendant individually, jointly and/or severally, together with interest, costs, punitive damages, attorney's fees and such other and further relief as this Honorable Court deems just, including equitable injunctive relief.


Respectfully Submitted,

BY: /s/ Brian R Mildenberg
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Attorney for Plaintiff

DATED: 10-19-18

BY: /s/ Matthew Weisberg
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DATED: 10-19-18

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DATED: 10-19-18